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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
09/684,173	10/06/2000	James R. Kittrell	00-625	3692				
7590 03/08/2007								
Gregory P. LaPointe Bachman & LaPointe, P.C. 900 Chapel Street, Suite 1201 New Haven, CT 06510-2802		<table border="1"><tr><td>EXAMINER</td></tr><tr><td>TRAN, THAO T</td></tr></table>			EXAMINER	TRAN, THAO T		
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/684,173

Applicant(s)

KITTRELL, JAMES R.

Examiner

Thao T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/07/2006 has been entered.
2. The Declaration filed on 8/23/2006 has been entered and considered.
3. Claims 27-28 are currently pending in this application.
4. In view of the prior Office action, the prior art rejection of the claims is maintained below.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 27-28 are rejected under 35 U.S.C. 103(a) as obvious over Kramer et al. (US Pat. 6,086,749).

Kramer teaches a catalyst composite, comprising an inorganic support with a deposit of one or more metals in the support. The inorganic support can be a mixture of silica and titania, whereas the metals can be tungsten oxide and platinum (see col. 37, ln. 2-20). Kramer further teaches tungsten oxide (Group VIB metal) to be about 0.5 to about 50% by weight, preferably about 0.5 to about 30% by weight; platinum (Group VIII metal) about 0.1 to about 10% by

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weight; and that the total metal components would be about 0.1 to about 60% by weight of the total catalyst (see col. 37, ln. 32-51), overlapping the instantly claimed ranges. Thus, the total weight of silica and titania would be about 40 to about 99.9%, overlapping the instantly claimed ranges.

Although Kramer is silent with respect to the individual weight percent of silica and titania, the weight percent of silica and titania each would be overlapping the instantly claimed ranges, because the silica weight is presently claimed to be about 0.1% to about 70% whereas the titania weight about 30% to about 90%.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have determined the weight percent of silica and titania needed to provide the properties desired in the catalyst. Moreover, Applicant has not shown unexpected results obtained by using the proper weight percent components in the catalyst as presently claimed.

Response to Arguments

7. The Affidavits filed on 3/06/2006 and 8/23/2006 have been considered but not found persuasive.

The Affidavit of 3/06/2006 provides two catalysts to illustrate the difference in catalytic activity of the catalysts having 0.2 weight % (catalyst 1) and 0 weight % (catalyst 2) of silica.

The Affidavit of 8/23/2006 provides two catalysts to illustrate the difference in catalytic activity of the catalysts having 37.3 weight % (catalyst 1) and 0 weight % (catalyst 2) of silica.

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However, catalyst 1 contains an amount of 0.2% or 37.3% of silica and not commensurate with the scope of the claims, whose range is from about 0.1 to about 70%.

The amount of silica in catalyst 2 is 0% since Applicant contends that the Kramer reference does not require silica in any of their catalyst compositions. However, as pointed out in the prior Office actions, Kramer does disclose the use of an inorganic support containing a mixture of silica and titania, thus silica is included in the catalyst although no individual weight percent of silica is provided by Kramer. Applicant should also provide an example showing 0% titania but include silica in the example.

It is further noted that the amounts of tungsten oxide, silica, and titania in catalyst 2 differ in the two Affidavits. These amounts are also specific and thus not commensurate with the weight percent ranges disclosed in the reference. Overall, the Affidavits are not sufficient to overcome the prior art.

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thao T. Tran
Primary Examiner
Art Unit 1711

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